

Documents on Diplomacy: The Source

The Burlingame Treaty July 28, 1868

Whereas, since the conclusion of the treaty between the United States of America and the Ta-Tsing Empire, (China) of the 18th June 1858, circumstances have arisen showing the necessity of additional articles thereto, the President of the United States and the august sovereign of the Ta-Tsing Empire have named for their plenipotentiaries to wit: the President of the United States of America, William H. Seward, Secretary of State, and his Majesty the Emperor of China Anson Burlingame, accredited as his Envoy Extraordinary and Minister Plenipotentiary, and Chih-Kang and Sun Chia-Ku, of the second Chinese rank, associated high envoys and ministers of his said Majesty; and the said plenipotentiaries, after having exchanged their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

His Majesty the Emperor of China, being of the opinion that, in making concessions to the citizens or subjects of foreign powers of the privilege of residing on certain tracts of land, or resorting to certain waters of the empire for purposes of trade, he has by no means relinquished his right of eminent domain or dominion over the said land and waters, hereby agrees that no such concession or grant shall be construed to give to any power or party which may be at war with or hostile to the United States, the right to attack the citizens of the United States or their property within the said lands or waters. And the United States, for themselves, hereby agree to abstain from offensively attacking the citizens or subjects of any power or party or their property, with which they may be at war, on any such tract of land or water of the said empire. But nothing in this article shall be construed to prevent the United States from resisting an attack by any hostile power or party upon their citizens or their property. It is further agreed, that if any right of interest in any tract in China has been or shall hereafter be granted by the government of China to the United States or their citizens for purposes of trade or commerce, that grant shall in no event be construed to divest the Chinese authorities of their right of jurisdiction over persons and property within said tract of land, except so far as that right may have been expressly relinquished by treaty.

ARTICLE II

The United States of America and his Majesty the Emperor of China, believing that the safety and prosperity of commerce will thereby best be promoted, agree that any privilege or immunity in respect to trade or navigation within the Chinese dominions which may not have been stipulated for by treaty, shall be subject to the discretion of the Chinese government, and may be regulated by it accordingly, but not in a manner or spirit incompatible with the treaty stipulations of the parties.

ARTICLE III

The Emperor of China shall have the right to appoint Consuls at ports of the United States, who shall enjoy the same privileges and immunities as those which are enjoyed by public law and treaty in the United States by the Consuls of Great Britain and Russia, or either of them.

ARTICLE IV

The 29th article of the treaty of the 18th of June 1858, having stipulated for the exemption of Christian citizens of the United States and Chinese converts from persecution in China on account of their faith, it is further agreed that citizens of the United States in China, of every religious persuasion, and Chinese subjects in the United States, shall enjoy entire liberty of conscience, and shall be exempt from all disability or persecution on account of their religious faith or worship in either country. Cemeteries for sepulture of the dead, of whatever nativity or nationality, shall be held in respect and free from disturbance of profanation.

ARTICLE V

"The United States of America and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and emigration of their citizens and subjects, respectively, from the one country to the other, for purposes of curiosity, of trade, or as permanent residents." The high contracting parties, therefore, join in reprobating any other than an entirely

voluntary emigration for these purposes. They consequently agree to pass laws making it a penal offense for a citizen of the United States or Chinese subjects to take Chinese subjects either to the United States or to any other foreign country, without their free and voluntary consent respectively.

ARTICLE VI

Citizens of the United States visiting or residing in China shall enjoy the same privileges, immunities, or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation. And, reciprocally, Chinese subjects visiting or residing in the United States, shall enjoy the same privileges, immunities, or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation. But nothing herein contained may be held to confer naturalization upon citizens of the United States in China, nor upon the subjects of China in the United States.

ARTICLE VII

Citizens of the United States shall enjoy all the privileges of the public educational institutions under the control of the government of China, and reciprocally, Chinese subjects shall enjoy all the privileges of the public educational institutions under the control of the government of the United States, which are enjoyed in the respective countries by the citizens or subjects of the most favored nation. The citizens of the United States may freely establish and maintain schools in the empire of China, at those places where foreigners are permitted to reside, and reciprocally, Chinese subjects may enjoy the same privileges and immunities in the United States.

ARTICLE VIII

The United States, always disclaiming and discouraging all practices of unnecessary dictation and intervention by one nation in the affairs or domestic administration of another, do hereby freely disclaim and disavow any intention or right to intervene in the domestic administration of China in regard to the construction of railroads, telegraphs, or other material internal improvements. On the other hand, his Majesty the Emperor of China, reserves to himself the right to decide the time and manner of introducing such improvements within his dominions. With this mutual understanding it is agreed by the contracting parties that if at any time hereafter his imperial Majesty shall determine to construct or cause to be constructed works of the character mentioned within the Empire, and shall make application to the United States or to any other western power for facilities to carry out that policy, the United States will, in that case, designate and authorize suitable engineers to be employed by the Chinese government, and will recommend to other nations an equal compliance with such application, the Chinese government in that case protecting such engineers in their persons and property, and paying them a reasonable compensation for their service.

In faith whereof, the respective Plenipotentiaries have signed this treaty, and hereto affixed the seals of their arms.

Done at Washington, the twenty-eighth day of July, in the year of our Lord one thousand eight hundred and sixty-eight.

[SEAL] WILLIAM H. SEWARD

[SEAL] ANSON BURLINGAME

CHI-KANG

SUN CHIA-KU

Source

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